

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SAMUEL PENSAMIENTO,

Petitioner,

v.

JOSEPH D. MCDONALD, JR., ANTONE
MONIZ, *and* THOMAS BROPHY,

Respondents.

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Civil Action No. 18-cv-10475-PBS

TEMPORARY RESTRAINING ORDER

BURROUGHS, D.J.

The Court held a hearing on Petitioner's emergency motion for writ of habeas corpus *ad prosequendum*, or in the alternative, for a temporary restraining order [ECF No. 2] on March 15, 2018. Pursuant to the discussion at that hearing, and by the consent of the parties to this case,¹ to allow Mr. Pensamiento to respond to criminal charges pending against him in state court, the Court enters the following temporary restraining order.

U.S. Immigrations and Customs Enforcement ("ICE") is ordered to transfer Mr. Pensamiento, who is presently in ICE custody, to the Commonwealth of Massachusetts to attend a hearing before the Chelsea District Court on March 19, 2018.²

The Suffolk County Sheriff, or the county sheriff who is responsible for transporting Mr. Pensamiento to and from the hearing, is ordered to return Mr. Pensamiento to ICE custody

¹ Respondents assert that Antone Moniz, Superintendent of the Plymouth House of Corrections, is the only proper Respondent in this action. [ECF No. 13 at 2]. Regardless of whether the other individuals named as respondents must be dismissed, Mr. Moniz has consented to the entry of this order.

² ICE will continue to have legal custody of Mr. Pensamiento at all times. This order addresses only physical custody, to the extent that ICE determines it must transfer physical custody to state officials at any point in order to allow Mr. Pensamiento to appear at the March 19 hearing.

immediately at the conclusion of the March 19 hearing.

Mr. Pensamiento is ordered to surrender himself to ICE custody, or to the county sheriff who will transport him to ICE custody, immediately at the conclusion of the March 19 hearing. As the Court stated during the March 15 hearing, he is not permitted to go anywhere else, regardless of any order or decision issued by a state court, and he shall make no attempt at evading return to ICE custody. Mr. Pensamiento's attorneys shall ensure that he complies with this order and returns to ICE custody immediately.

SO ORDERED.

March 15, 2018

/s/ Allison D. Burroughs
ALLISON D. BURROUGHS
U.S. DISTRICT JUDGE